

C-O-N-F-I-D-E-N-T-I-A-L

O/DD/I

9 Feb 1980

Analysis of DRAFT NO. 5, 22 Jan 80, for directive to replace DCID 11/2 15 Nov 56, as compared with DRAFT 1 and R 51-700 1 Mar 56 (CIA implementation of 11/2)

Compared with DRAFT 1

DRAFT 5 cleans up most of the many formal infelicities of DRAFT 1: bad grammar, obscure language, poor paragraph numbering, etc.

DRAFT 5 has many, most minor, changes in language tending to make its terms more concrete and specific: e.g., "those officials" for "those higher echelons". It adds, in three of the USB paragraphs, as a proviso, a description of the type of document in which incorporation without carry-over of the control stamp may be permitted, which seem intended to elaborate on the definition "finished intelligence", as follows (in 4.a., 4.b., 5):

'provided, that the information is paraphrased and is used
'in a manner which conceals the originating agency, the
'source, the place acquired and any indication of the manner
'of acquisition.'

DRAFT 5 omits the following paragraphs from DRAFT 1:

2. "Need-to-know" qualification
5. On public release
9. Provision for CODIB determination of citing rules
10. Reference of questions to originating agency
12. Release to contractors

Compared with R 51-700

DRAFT 5 decreases the number of stamps and redefines them:

NSC PARTICIPATING ONLY, INTELL COMPONENTS ONLY, and LIMITED, are replaced by the single INTELLCOM CONTROL; CONTINUED CONTROL IS ABOLISHED; NOFORN is dedefined to equal the old NOFORN plus CONTINUED CONTROL

DRAFT 5 introduces and stresses the difference between dissemination of a document itself and incorporation of its substance into another document.

DRAFT 5 introduces a definition of "finished intelligence"; R 51-700 uses the term without definition, defining only "intelligence".

The principal possible effects on DD/I procedures would seem to lie in
The dissemination provisions of INTELLCOM CONTROL, and
The use provisions for NOFORN.

These are analyzed in greater detail on the following sheets.

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O/DD/I: Analysis for DRAFT 5 to replace 11/2, SHEET 2

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Dissemination affects of DRAFT 5 INTELLCOM CONTROL & 51-700 LIMITED

DRAFT 5 INTELLCOM CONTROL 51-700 LIMITED

Permitted recipients

USIB

Immediate staff of

USIB members

Full-time employees of
CIA, AEC, FBI
Intelligence components in
State, Defense

non-USIB

Officials and supporting staffs
of departments & agencies
represented on USIB
who must necessarily
deal with and act on
community intelligence

Other MIS-producers and
higher echelons with
immediate supporting staffs in
State and Defense

Exclusions

Consultants

External projects

Reserves on short-term act.dy.

Contractors

Consultants

External projects

Reserves on short-term active duty
except normally full-time employees of
CIA, AEC, FBI, State, Defense

Questions:

Does DRAFT 5 make adequate provision (or at least as adequate as the existing 51-700 and 11/2) for dissemination to MIS-producers not immediately under a USIB member?

Does "immediate staff of USIB members" accurately describe intelligence analysts in G-2? Are all full-time intelligence analysts in CIA considered to belong to the immediate staff of the Director?

Is the number of CIA reservists taking active duty with G-2, or the reverse, sufficiently great that omission in DRAFT 5 of the 51-700 exception for full-time employees of units under USIB members likely to cause difficulties?

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O/DB/I: Analysis of DRAFT 5 to replace 11/2, SHEET 3

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USE (Incorporation) affects of "finished intelligence" definition in DRAFT 5

DRAFT 5, Par.4.a (INTELLCOM CONTROL) provides:

This information may be used in finished intelligence¹ without carrying over control provided / provide quoted SHEET 1/ If used in digests & summaries, control marking carries over

¹Finished intelligence is defined as a comprehensive study which takes cognizance of all available information and is intended to provide the reader with the best available estimate of status or trend for a particular area or subject.

USE paragraph for NO DISSEM ABROAD same as that for INTELLCOM CONTROL

(For analysis USE provisions for NOFORN, see SHEET 4.)

R 51-700, Par 4, provides:

An information item not stamped either CONTINUED CONTROL or BACKGROUND USE ONLY may be used in finished intelligence except digests and summaries, without regard to control stamps on it Provided:

CS, OO-A & controlled OO-B are so used as to conceal source & collection-method, and cited only by major component; and ForServ & Defense reports are paraphrased

Any citation of above-listed documents will be removed before release to foreign nationals

NOTE that 51-700 provisions on use without control-carry-over apply to all controls, including NOFORN

Question:

Does the above definition of "finished intelligence" cover all publications for which incorporation of controlled information without carry-over of controls is important?

Does it include, for example, contributions to other documents (e.g., to NIE's) in which the "best available" estimate is to be provided by the recipient on the basis of more than one contribution, so that "best available" can hardly be applied appropriately to the separate contribution?

Does it include the following particular publications:

- OCR: Reference Aids, Biographic Intelligence Bulletin
- OCI: Curr. Intell. Staff Studies, Memoranda
- ONE: Staff Memoranda
- ORR: Research Aids, Provisional Reports
- OSI: Provisional Reports

Suggestion:

Do the provisos, as quoted on SHEET 1, furnish a sufficiently adequate definition of the sort of document in which incorporation may be permitted without carry-over of controls that the bound-to-be-controversial definition of "finished intelligence" could be dropped? Or could the proviso be made textual into the definition?

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O/DD/I: Analysis of DRAFT 5 to replace 11/2, SHEET 2 4

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USE (and verbal communication) effects NOFORN provisions in DRAFT 5

Under DRAFT 5 provisions,

(Par. 5) document not slugged NOFORN
may be incorporated in document
in finished-intelligence form
releasable to foreigners
provided (proviso cited SHEET 1)

(Par. 6) If document slugged NOFORN,
information from it not to be
released to foreigners
in any form,
unless, specific permission for
certain foreigners is added to
control on document

Under existing 11/2 and 51-700,

NOFORN information,
if not also CONTINUED CONTROL
may be incorporated in finished intelligence
subject to provisos of 51-700 Par. 4,
(summarized on SHEET 3)

That is ,

DRAFT 5 NOFORN equals 51-700 NOFORN CONTINUED CONTROL

Question: Is the privilege under existing regulations, of incorporating
NOFORN (if not also CONTINUED CONTROL) information into intelligence docu-
ments without carry-over of control, /valuable and worth continuing?
and without consulting originator, /

*What about
OO/B's?* For CIA documents, this privilege may even now be unreal or valueless, since

Many, if not most, CIA NOFORN are also CONTINUED CONTROL
(so that the change would be in form rather than substance)

And satisfactory arrangements have been set-up for clearing
the use of individual documents.

State and Defense documents, on the other hand, do not now add the
CONTINUED CONTROL to their equivalent to NOFORN, *(on 11/2, Par. 5)*

That is, they may be incorporated under provisions of 51-700, Par. 4
without control carry-over and without specific consultation;

While DRAFT 5 would require State and Defense to use the more
restrictive NOFORN,

so that specific consultation would be necessary in each case of
desired incorporation of a NOFORN document, and such consultation
might not be as readily arranged as at present with our CS.

VERBAL Communication Question: Are the proposed DRAFT 5 provisions on
NOFORN more restrictive on verbal briefings of foreign liaison officers
than present regulations?

The final paragraph of Par. 5.b. of DRAFT 5 specifies that if the originator
permits information-release (though not document-release) to specified
foreign governments by stamp on document itself, such information
may be released in finished-intelligence form only.

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